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8	Attorneys for Petitioner Ray Antonio Azcarate	
10	UNITED STATES DISTRICT COURT	
11	DISTRICT OF NEVADA	
12	RAY ANTONIO AZCARATE,	Case No. 2:17-cv-02190-RFB-GWF
13	Petitioner,	
14 15	v. BRIAN WILLIAMS, et al.,	UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE A FIRST AMENDED PETITION FOR
16 17	Respondents.	WRIT OF HABEAS CORPUS (Second Request)
118   119   220   221   222   223   224   225   226   226	Petitioner, Ray Azcarate, by and though counsel, C.B. Kirschner, Assistant Federal Public Defender, moves this Court for an extension of time of sixteen (16) days from April 23, 2018, to and including May 9, 2018, to file a First Amended Petition for Writ of Habeas Corpus. This motion is based upon the attached points and authorities and all pleadings and papers on file herein.	

## POINTS AND AUTHORITIES

- 1. On or about November 8, 2007, Ray Antonio Azcarate was sentenced to two, consecutive sentences of life imprisonment without the possibility of parole, following his conviction for murder with use of a deadly weapon. On August 4, 2017, he filed a Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 by a Person in State Custody (Not Sentenced to Death). ECF No. 1-1. Mr. Azcarate remains incarcerated at High Desert State Prison.
- 2. On October 25, 2017, this Court appointed the Office of the Federal Public Defender as counsel for Mr. Azcarate. ECF No. 6. Undersigned counsel, C.B. Kirschner, filed a Notice of Representation on November 22, 2017. ECF No. 9.
- 3. This Court further granted leave for counsel to file an Amended Petition for Writ of Habeas Corpus. ECF No. 6. The Amended Petition is currently due April 23, 2018. Petitioner now requests an additional sixteen (16) days, up to and including May 9, 2018, to file the Amended Petition. This is the second request for an extension of time.
- 4. The additional period of time is necessary in order to effectively represent Mr. Azcarate. This motion is filed in the interests of justice and not for the purposes of unnecessary delay.
- 5. Since being appointed to this case, counsel's office has been working diligently to assemble all necessary materials in order to file a complete and accurate Amended Petition.
- 6. Counsel has also had to meet filing deadlines on several other cases: Hazelwood v. Skolnik, 3:14-cv-00022-LRH-WGC, Reply to Answer filed March 7, 2018; Rodney v. Baker, 17-15438, Opening Brief to Ninth Circuit filed March 29, 2018; Taukitoku v. Filson, 3:16-cv-00762-HDM-WGC, Amended Petition and Motion for Discovery filed April 3, 2018; Sanchez-Dominguez v. Baker, 3:17-cv-00053-HDM-

WGC, Opposition to Motion to Dismiss filed April 10, 2018; and *Flowers v. State*, 53159 & 55759, Motion to Reinstate Appeals to Nevada Supreme Court filed April 18, 2018. Counsel also has another Amended Petition that must be filed in *Barron-Aguilar v. Wickham*, 3:17-cv-00548-MMD-VPC, before the expiration of the AEDPA statute of limitations on May 4, 2018.

- 7. On April 19, 2018, Deputy Attorney General Natasha Gebrael was contacted via email and stated that she did not object to the extension, but the lack of objection should not be construed as a waiver of any procedural defenses, nor as a concession that any amended petition will be considered timely filed, nor as a basis for equitable tolling.
- 8. For the above stated reasons, Petitioner respectfully requests this Court grant the request for an extension of time of sixteen (16) days and order the Amended Petition to be filed on or before May 9, 2018.

Dated this 23rd day of April, 2018.

Respectfully submitted, RENE L. VALLADARES Federal Public Defender

/s/ CB Kirschner

C.B. KIRSCHNER Assistant Federal Public Defender

IT IS SO ORDERED:

RICHARD F. BOULWARE, II United States District Judge DATED this 24th day of April, 2018.

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## CERTIFICATE OF SERVICE

I hereby certify that on April 23, 2018, I electronically filed the foregoing with the Clerk of the Court for the United States District Court, District of Nevada by using the CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system and include: Natasha M. Gabrael.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage pre-paid, or have dispatched it to a third party commercial carrier for delivery within three calendar days, to the following non-CM/ECF participants:

Ray Antonio Azcarate No. 62962 High Desert State Prison PO Box 650 Indian Springs, NV 89070

/s/ Dayron Rodriguez

An Employee of the Federal Public Defender